

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION NO.12159/1992

BETWEEN:

Sri.Mehaboobsab Mulla (Radio)
Son of Sri.Sattarsab, aged
about 40 years,
Occ:Ex-Lineman (on casual),
Office of the Asst.
Executive Engineer (Elecl)
O&M Sub-Division, Hadagali,
Dist. Bellary.

257
..PETITIONER

(By srivighneshwar. S. Shastri, Advocate)

AND:

1. The State of Karnataka
represented by its Secretary
to Social Welfare and
Labour Department,
M.S.Building,
Bangalore-560 001.
2. The Karnataka Electricity
Board, Cauvery Bhavan,
Bangalore-9,
by its Secretary.
3. The Chief Engineer (Elecl)
Karnataka Electricity Board,
Cauvery Bhavan, Bangalore-9.
4. The Superintending Engineer
(Elecl), O&M Circle, Karnataka
Electricity Board, Munirabad,
Dist. Raichur.



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5. The Executive Engineer (Elect)
O&M Division No.1,
Gandhinagar,
Bellary - 583 101.

6. The Assistant Executive
Engineer (Elect),
O&M Sub-Division,
Hadagali,
Dist. Bellary.

..RESPONDENTS

(By Smt. Bharathi Nagesh, A.G.A. for R-5 & 6,
Sri B.C. Prabhakar for R-2 to 4)

This Writ petition is filed under Articles 226 & 227 of the Constitution of India praying to declare that the termination of the service of the petitioner as line-man in the office of the respondent No.6 is illegal and void; direct the respondents 2 to 6 to reinstate him into service as Line-man with all consequential benefits and absorption of his services on permanent basis with all benefits flowing there with etc.,

This Writ petition is coming on for hearing this day, the Court made the following:-

ORDER

The petitioner in this case seeking various reliefs including quashing of the impugned endorsement at Annexure-J urging various legal contentions.

2. Learned counsel for the petitioner Sri. Sureshwara S. Shastri is not pressing the other reliefs except the relief for quashing Annexure-J



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359

the endorsement issued by the 1st respondent. The first respondent Government declined to make a reference, in exercise of its powers under the provisions of the Industrial Dispute Act, 1947, solely on the ground that the petitioner has raised a dispute after 22 years from the date of termination. Therefore, there is a delay in raising the dispute. The State Government has failed to exercise its power under Section 10 of the Act. Learned counsel for the petitioner submits that this case is covered by the Division Bench judgment of this Court decided in W.A. No.1219/90 NARAYANAPPA vs. STATE OF KARNATAKA. This Court has clearly held that it is not open to the Government to reject the reference either on the ground of delay or on the ground that the enquiry was not held properly. Those findings are within the domain of the adjudicating authority constituted under the statute on a reference. In this view of the matter, the impugned endorsement Annexure-J is not sustainable in law.

Writ petition is allowed. Rule made absolute.

Annexure-J is hereby quashed. The first respondent is hereby directed to examine the matter afresh



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360

on the basis of the observations made above and exercise its power to make a reference to the appropriate labour Court under the provisions of the Industrial Dispute Act within two months from the date of receipt of this order, but no costs are awarded.



Sd/-
JUDGE

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